great anguish and suffering on the part of the families of detainees—no less than did the practice of ''forcible disappearance'' in past decades—while engendering enormous hostility toward the United States.

IN THE INTEREST OF NATIONAL SECURITY

The Administration has argued that, faced with the unprecedented security threat posed by terrorist groups ''of global reach,'' [13] it has had to resort to preventive detention and interrogation of those suspected to have information about possible terrorist attacks. According to the Defense and Justice Departments, a key purpose of these indefinite detentions is to promote national security by developing detainees as sources of intelligence. And while much of what goes on at these detention facilities is steeped in secrecy, intelligence agents insist that ''[w]e're getting great info almost every day.'' [14]

Whatever the value of intelligence information obtained in these facilities—and there is reason to doubt the reliability of intelligence information gained only in the course of prolonged incommunicado detention[15]—there is no legal or practical justification for refusing to report comprehensively on the number and location of these detainees—or to fail to provide the identities of detainees to the ICRC, detainees' families, their counsel, or to others having a legitimate interest in the information (unless a wish to the contrary has been manifested by the persons concerned).

The United States is of course within its power to ask questions and to cultivate local sources of information. And the United States certainly has the power to detain—in keeping with its authority under the Constitution and applicable international law—those who are actively engaged in hostilities against the United States, or those suspected of committing or conspiring to commit acts against the law. But it does not have the power to establish a secret system of offshore prisons beyond the reach of supervision, accountability, or law.

Finally, even if some valuable information is being obtained, there are standards on the treatment of prisoners that cannot be set aside. The United States was founded on a core set of beliefs that have served the nation very well over two centuries. Among the most basic of these beliefs is that torture and other cruel, inhuman or degrading treatment is wrong; arbitrary detention is an instrument of tyranny; and no use of government power should go unchecked. The refusal to disclose the identity of detainees, prolonged incommunicado detention, the use of secret detention centers, and the exclusion of judicial or ICRC oversight combine to remove fundamental safeguards against torture and ill-treatment and arbitrary detention. Current practices which violate these principles must be stopped immediately.

The abuses at Abu Ghraib underscore the reason why, since the United States' founding, Americans have rejected the idea of a government left to its own devices and acting on good faith in favor of a government based on checks and balances and anchored to the rule of law. As James Madison noted, ''[a] popular Government without popular information, or the means of acquiring it, is but a Prologue to a Farce or Tragedy.'' [16] This nation's history has repeatedly taught the value of public debate and discourse. To cite one example, the United States learned this 30 years ago when a series of congressional investigations uncovered widespread, secret domestic spying by the CIA, NSA, FBI, and the Army—revelations whose impact on the intelligence agencies was, in former CIA Director Stansfield Turner's words, ''devastating.'' [17]

We should be clear—the United States has important and legitimate interests in gathering intelligence information and in keeping some of this information secret. But we are not demanding the public release of any information that would compromise these interests. What we are calling for is an official accounting—to Congress and to the ICRC—of the number, nationality, legal status, and place of detention of all those the United States currently holds. We ask that all of these places of detention be acknowledged and open to inspection by the ICRC, and that the names of all detainees be made available promptly to the ICRC and to others with a legitimate interest in this information. Neither logic nor law supports the continued withholding of the most basic information about the United States' global system of secret detention. Trust is plainly no longer enough.

RETIREMENT OF VICE ADMIRAL GORDON S. HOLDER, UNITED STATES NAVY

Mr. NELSON of Florida. Mr. President, I rise today to recognize a great patriot, sailor and fellow Floridian, VADM Gordon S. Holder. Vice Admiral Holder is retiring after a distinguished 36-year career in the United States Navy.

Gordon Holder entered naval service in 1968 after graduating from Florida State, University in Tallahassee and completion of the Officer Candidate School in Newport RI. Since then he as served with distinction in peace and war in a variety of command and staff positions on shore and at sea.

Vice Admiral Holder's illustrious career includes sea duty on the USS *William C. Lawe* (DD 763) as First Lieutenant and Combat Information Center Officer, USS *Brumby* (DE 1044) as Operations Officer, USS *Boulder* (LST 1190) as Chief Engineer, and USS *Hermitage* (LSD 34) as Executive Officer. His first command at sea was USS *Inflict* (MSO 456), with subsequent commanding officer afloat tours in USS *Whidbey Island* (LSD 41) and USS *Austin* (LPD 4). He has also served staff tours with Commander Seventh Fleet and Commander Naval Forces, U.S. Central Command as Fleet Exercises and Amphibious Warfare Officer, and with Amphibious Group Two as Assistant Chief of Staff for Operations and Plans.

Shore tours include Aide to the Commandant Sixth Naval District and Commander Naval Base Charleston, Company Officer and Special Assistant to the Commandant, U.S. Naval Academy, and Assistant Surface Commander Assignments Officer, Naval Military Personnel Command. In 1980, Vice Admiral Holder graduated with distinction from the Air Command and Staff College at Air University, Montgomery, AL.

Vice Admiral Holder was selected for promotion to flag rank in December 1993 and has served as Commander Naval Surface Group Middle Pacific and Commander Naval Base Pearl Harbor, Commander Naval Doctrine Command, Commander Amphibious Group Two, and Commander, Military Sealift Command.

Vice Admiral Holder assumed his current duties as Director for Logistics on the Joint Staff on September 4, 2001 just one week prior to the fateful attacks on U.S. soil. In this capacity he has worked tirelessly and with great success to plan, organize and direct the massive logistics effort of the nation in support of our Armed Forces in the global war on terrorism, including successful combat operations in Afghanistan and Iraq. At the same time, he has been instrumental in guiding the transformation of military logistics to a true 21st century structure that links industry, supply, transportation, maintenance and management systems capable of supporting our forces around the globe. Vice Admiral Holder has had direct and far-reaching influence on numerous policies, programs and operations that support our soldiers, sailors, airmen and marines, including, most notably the rotation of forces in Operation Iraqi Freedom, the largest movement of American forces since World War II.

I ask my colleagues to join me in thanking Vice Admiral Holder for the leadership he has provided, for the care and concern he has demonstrated for our service members and their families and for his dedicated and honorable service to our Nation and Navy. As he turns to retired life, we wish him, his wife Pat and family Godspeed and all the best in the future.

NATIONAL HEALTH INFORMATION TECHNOLOGY ADOPTION ACT

Mr. BUNNING. Mr. President, I would like to rise today to talk for a few minutes about a bill I am cosponsoring, the National Health Information Technology Adoption Act, S. 2710. This bill, introduced yesterday by Senator GREGG, chairman of the Senate Health, Education, Labor and Pensions Committee, takes an important step forward in bringing our Nation's medical system into the 21st century.

In today's society, it seems that almost everything is computerized and on-line. You can pay your bills on-line, order your groceries on-line, and even file your taxes on-line. However, for the most part, medical records are still on paper and in files. This means these records are uneasily shared between doctors treating the same patient or are not readily available during an emergency.

Earlier this year, the Bush administration made computerizing the Nation's medical record and building a nationwide health network a priority. Yesterday, Health and Human Services Secretary Tommy Thompson released a 10-year plan for doing just that.

S. 2710 is similar to the administration's plan and takes some immediate steps to start fulfilling this goal, including establishing an official office at the Department of Health and Human Services to coordinate health information technology at the national level. The bill also provides assistance

to local communities linking their health care systems, along with providing grants for purchasing health information technology.

Creating a safe, secure and reliable system for medical records won't be easy, but if done properly, it could help health care providers reduce medical errors and provide better care to their patients. We could also see a substantial savings in administrative costs which will help lower health care costs for everyone.

S. 2710 is a good first step, and I am proud to be a co-sponsor. I am hopeful that the members of the Senate Committee on Health, Education, Labor and Pensions can work together to pass this bill soon, and that we can get it to the President's desk by the end of the year.

LABOR-HHS APPROPRIATIONS

Mr. GREGG. Mr. President, the Senate will soon have the opportunity to consider the 2005 Labor-Health and Human Services Appropriations bill recently passed the House. Included in that bill is a provision that would divert $500,000 in funding from the Office of the General Counsel at the Food and Drug Administration—FDA. As chairman of the committee with oversight over the FDA, I believe that such a provision is not only misguided, but based upon a flawed understanding of both the Agency and the facts.

According to the sponsors of this provision, such a punitive measure is warranted because the current Chief Counsel, Dan Troy, is taking the Agency ''in a radical new direction'' by filing amicus curiae briefs in product liability cases. Sponsors of this provision also claim that Mr. Troy's involvement in one such case is suspect because it involved Pfizer, a client of Mr. Troy's when he was with the law firm of Wiley, Rein & Fielding. Such charges are patently without merit, and I would like to take this opportunity to set the record straight.

First, Mr. Troy has not broken any new ground by having the FDA interject in product liability cases on the side of a defendants without the court requesting the Agency's position. I have here a letter addressed to me from five former FDA chief counsels—two of which are Democrats—affirming that Mr. Troy's actions are neither ''radical'' nor ''novel.'' I ask unanimous consent that a copy of that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 21, 2004.

Re Hinchey Amendment to cut $500,000 from the appropriations for the FDA Office of Chief Counsel

Hon. JUDD GREGG,

Chairman, Health, Education, Labor and Pensions Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN GREGG: The undersigned comprise all of the former Chief Counsel to the Food and Drug Administration (in both Republican and Democratic Administrations), except for one who is currently an attorney in the Office of the General Counsel of the Department of Health and Human Services. We are writing to recommend reconsideration of the amendment to the FDA appropriations bill by Representative Hinchey of New York on the floor of the House of Representatives, which would reduce the appropriation for the FDA Office of Chief Counsel by $500,000 and would increase the appropriation for the Division of Drug Marketing, Advertising, and Communications in the FDA Center for Drug Evaluation and Research by a corresponding amount. We support additional funds for the Division of Drug Marketing, but we believe that the reduction of the appropriation for the Office of Chief Counsel and Representative Hinchey's reasons for penalizing that Office cannot be supported.

FDA's Office of Chief Counsel performs critical functions in the administration and enforcement of the Federal Food, Drug, and Cosmetic Act and other laws administered by FDA. The substantial reduction in the funding of that Office, therefore, would materially impair its ability to meet the needs of its client, FDA. Such impairment would be contrary to the public interest.

Representative Hinchey's reasons for penalizing the Office of Chief Counsel and criticizing FDA Chief Counsel Daniel E. Troy are set forth in the House Debate on the FDA appropriations legislation as reported in 150 Cong. Rec. H5598–H5599 (July 13, 2004). Representative Hinchey states that Mr. Troy ''has taken the agency in a radical new direction'' by submitting amicus curiae briefs in cases in which courts have been asked to require labeling for pharmaceutical products that conflicts with FDA decisions about appropriate labeling for those products. Representative Hinchey characterizes this activity as a ''pattern of collusion between the FDA and the drug companies and medical device companies'' in a way that has ''never happened before.''

These characterizations are inaccurate.

In Weinberger v. Bentex Pharmaceuticals, Inc., 412 U.S. 645 (1973), the Supreme Court agreed with the briefs filed by the Department of Justice on behalf of FDA that the agency has primary jurisdiction over new drug issues. In Jones v. Rath Packing Co., 425 U.S. 933 (1977), the FDA took the position in an amicus curiae brief submitted by the Department of Justice that federal food labeling requirements preempt inconsistent state requirements, and the Supreme Court agreed. In subsequent private tort litigation, FDA has taken the position, through amicus curiae briefs filed by the Department of Justice, that FDA decisions regarding drug product labeling and related issues preempt inconsistent state court determinations, and the courts have agreed. E.g., Bernhardt v. Pfizer, Inc., 2000 U.S. Dist. Lexis 16963 (November 16, 2000); Eli Lilly & Co. v. Marshall, 850 S.W. 2d 164 (Texas 1993). All of this was to protect a uniform national system of food and drug law. All of it occurred before Mr. Troy assumed his current position. In none of these cases did any court request FDA's opinion. Thus, there is ample precedent for the actions that Mr. Troy has recently been undertaking. His action is not radical or even novel.

The amicus curiae briefs filed by the Department of Justice at the request of Mr. Troy protect FDA's jurisdiction and the integrity of the federal regulatory process. There is a greater need for FDA intervention today because plaintiffs in courts are intruding more heavily on FDA's primary jurisdiction then ever before. In our judgment, Mr. Troy's actions are in the best interests of the consuming public and FDA. If every state judge and jury could fashion their own labeling requirements for drugs and medical devices, there would be regulatory chaos for these two industries that are so vital to the public health, and FDA's ability to advance the public health by allocating scarce space in product labeling to the most important information would be seriously eroded. By assuring FDA's primary jurisdiction over these matters, Mr. Troy is establishing a sound policy of national decisions that promote the public health and, thus, the public interest.

We therefore recommend that the $500,000 cut from the appropriations for the FDA Office of Chief Counsel be restored.

Sincerely yours,

PETER BARTON HUTT (1972–1975).
RICHARD A. MERRILL (1975–1977).
RICHARD M. COOPER (1977–1979).
NANCY L. BUC (1980–1981).
THOMAS SCARLETT (1981–1989).

Mr. GREGG. Mr. President, second, as stated in the letter from the five former FDA chief counsels, the FDA has been filing amicus briefs for such purposes since long before Mr. Troy's tenure. Mr. Troy is responsible for safeguarding the FDA's ability to carry out the responsibilities Congress has given the Agency, and his interest in those cases has been to preserve the FDA's authority and to safeguard the Agency's primary jurisdiction.

Finally, if Mr. Troy's previous work for a client—in this case Pfizer—automatically precluded him from representing a federal agency in any matter affecting that client, such a policy would not only discourage, but make it extremely difficult for any private sector attorney from taking a job in government. Additionally, I know from personal experience that Mr. Troy has the character and the integrity to recuse himself from a matter when appropriate. On at least one occasion in which my office was required to interact with the FDA, Mr. Troy recused himself from involvement in the matter, citing his interest in complying strictly with FDA rules.

Mr. Troy's actions are neither inappropriate nor unprecedented. Rather, these are examples of Mr. Troy doing his job and enforcing the law. I urge my colleagues to carefully consider these facts before supporting any provision, such as this one, that would undermine the FDA's ability to protect the public health and patient access to safe and effective life-saving therapies.

AVIATION SECURITY

Mr. HOLLINGS. Mr. President, the 9/11 Commission released its report today on the events leading up to 9/11, and the security failures that precipitated this tragedy. The Senate Commerce Committee has spent a great deal of its time and attention on aviation security over the years. I have served in the U.S. Senate for more than 38 years. This institution can be slow to make decisions, but when needed, this body can move quickly and effectively. After 9/11, we acted immediately